

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Terrence E. Dickens,

Petitioner,

v.

Case No. 1:08cv430

Tim Brunsman, Warden,

Judge Michael R. Barrett

Respondent.

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on August 24, 2009 (Doc. 18).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). Petitioner requested an extension of an additional sixty days to file objections (Doc. 20). Finding sixty days excessive, this Court granted him a two week extension to September 25, 2009 (Doc. 21). Despite the additional time to do so, Petitioner did not file objections to the Magistrate Judge's Report and Recommendation.

Having reviewed this matter de novo pursuant to 28 U.S.C. 636, this Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. The Petitioner's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 2) is denied with prejudice. The Petitioner's Motion for Summary Judgment (Doc. 12) is denied.

A certificate of appealability should not issue with respect to petitioner's claims for relief with respect to Grounds One, Two, Three, Five and Six under the applicable two-part

standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). As to the remaining grounds, a certificate of appealability should not issue with because Petitioner has failed to make a substantial showing of the denial of a constitutional right based on these claims. See 28 U.S.C. §2253(c); Fed. R. App. P. 22(b). With respect to any application by petitioner to proceed on appeal in *forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation would not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal in *forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

**IT IS SO ORDERED.**

s/Michael R. Barrett  
UNITED STATES DISTRICT JUDGE